

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ANA LITOFISKY

Plaintiff,

v.

GREAT LAKES REINSURANCE (U.K)
SE

Defendant.

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CASE NO. 5:17-cv-347

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

Defendant GREAT LAKES INSURANCE SE (formerly known as Great Lakes Reinsurance (UK) SE), in a cause styled *Ana Litofsky v. Great Lakes Reinsurance (UK) SE*, originally pending as Cause No. 2017-CI-04280 in the 288th Judicial District Court of Bexar County, Texas, hereby respectfully files this Notice of Removal of that cause to the United States District Court for the Western District of Texas, San Antonio Division, while fully reserving all rights and defenses, and as grounds therefore would respectfully shows the Court as follows:

I. NATURE OF THE PENDING STATE CASE

1. On or about March 8, 2017, Plaintiff *Ana Litofsky* (“Plaintiff”) filed a civil action styled *Ana Litofsky v. Great Lakes Reinsurance (U.K.) SE* under Cause No. 2017CI04280 in the 288th Judicial District Court of Bexar County, Texas.

2. That matter is an insurance dispute wherein Plaintiff alleges in her Original Petition that her properties, located at 330 Mariposa Drive, San Antonio, Texas 78212 and 4122 Seabrook Drive, San Antonio, Texas 78247, and insured under an insurance policy issued by Defendant, sustained significant damage during a wind and hailstorm occurring on or about April

12, 2016. Plaintiff further alleges causes of action for breach of contract and violations of entire chapters of the Texas Insurance Code.

3. Defendant has attached the documents required to be filed with this Notice of Removal.¹

II. JURISDICTION

4. Pursuant to 28 U.S.C. § 1441(a), Defendant removes this action to the District Court of the United States for the Western District of Texas, San Antonio Division, because it is the District and Division embracing the place where such action is pending. In support thereof, Defendant would show that this action is between citizens of different states, and the amount in controversy exceeds \$75,000.00.

5. Plaintiff claims to seek monetary relief less than \$75,000.00.² However, this is an inaccurate statement. Plaintiff's prayer states she is seeking actual damages, consequential damages, 18% interest, treble damages, attorney's fees, and costs.³ Plaintiff's alleged actual damages in her demand letter for the two properties the subject of this suit total over \$30,000.00.⁴ Merely trebling this amount, as Plaintiff has requested the Court do, reveals that Plaintiff is in fact seeking relief in excess of \$75,000.00. Including Plaintiff's request for interest, fees, and costs increases the amount in controversy over \$75,000 as well.

6. Plaintiff's Original Petition confirms that she is a citizen of Texas.⁵

¹ Plaintiff's Original Petition, attached hereto as Exhibit "A;" Return on Service, attached hereto as Exhibit "B;" Defendant's Original Answer, attached hereto as Exhibit "C;" An Index of Matters Being Filed, attached hereto as Exhibit "D;" Copy of State Court Docket Sheet, attached hereto as Exhibit "D-1;" Copy of Process, attached hereto as Exhibit "D-2;" List of All Counsel of Record, attached hereto as Exhibit "D-3;" Civil Cover Sheet, attached hereto as Exhibit "D-4;" and Plaintiff's Demand Letter, attached hereto as Exhibit "E."

² See Exhibit "A," at p. 2.

³ *Id.*, at p. 5.

⁴ See Exhibit "E."

⁵ Exhibit "A," at p. 1.

7. Plaintiff's Original Petition confirms that Defendant is not a citizen of Texas.⁶ Additionally, Defendant is a Societas Europea incorporated in Germany and registered with the commercial register of the local court of Munich under number HRB 230278. Defendant's registered office is at Königinstraße 107, 80802 Munich, Germany.

III. TIMING OF REMOVAL

8. Plaintiff served Defendant by way of the Commissioner of Insurance of the Texas Department of Insurance on March 20, 2016.⁷ In the event that Plaintiff's attempted service of Defendant is deemed proper, this Notice of Removal is being filed within 30 days of service of the petition upon the Commissioner of Insurance of the Texas Department of Insurance pursuant to 28 U.S.C. § 1446(b), and is filed less than one year after commencement of the action, pursuant to 28 U.S.C. § 1446(c).

9. This Notice is therefore timely filed.

IV. NOTICE TO ADVERSE PARTIES AND STATE COURT

10. As the removing parties, Defendant will give Plaintiff prompt written notice of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

11. Defendant will also file a copy of this Notice of Removal with the 288th Judicial District Court of Bexar County, Texas, where the state court action is currently pending, as required by 28 U.S.C. § 1446(d).

V. ANSWER

12. Defendant filed its Answer in the state court action, as well as the Notice of Removal as required by the Federal Rules of Civil Procedure.

⁶ *Id.*, at p. 2.

⁷ *See* Exhibit "B."

VI. JURY DEMAND

13. Defendant hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

VII. CONCLUSION AND PRAYER

14. In light of the foregoing, Defendant respectfully remove this civil action styled *Ana Litofsky v. Great Lakes Reinsurance (UK) SE* under Cause No. 2017CI04280 in the 288th Judicial District Court of Bexar County, Texas.

15. Defendant prays for such other and further relief, both general and special, at law and in equity, to which they may show itself justly entitled.

Respectfully submitted by,

/s/ Les Pickett

Les Pickett (Lead Counsel)
Federal I.D. No. 14306
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Removal has been served on the following via facsimile on this 19th day of April 2017:

Via Facsimile: (210) 472-1110

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/s/ Les Pickett

Les Pickett